

Chapter 19.85
RESIDENTIAL FACILITIES FOR
PERSONS WITH A DISABILITY

Sections:

- 19.85.010 Purpose.**
19.85.020 Definition.
19.85.030 Permitted use.
19.85.040 Development standards.
19.85.050 Reasonable accommodation.
19.85.060 Termination.
19.85.070 Severability.

19.85.010 Purpose.

The purpose of this chapter is to:

A. Comply with *Utah Code Ann.* §10-9a-520;

B. Avoid discrimination in housing against persons with disabilities as provided in the Utah Fair Housing Act and the federal Fair Housing Act as interpreted by courts having jurisdiction in Utah; and

C. To protect the city and its residents from any substantial risks and direct threats which may exist.

19.85.020 Definition.

As used in this title, “residential facility for persons with a disability” means a residence in which more than one person with a disability resides and which is licensed or certified by:

A. The Utah Department of Human Services under *Utah Code Ann.* Title 62A, Chapter 2, Licensure of Programs and Facilities, or

B. The Utah Department of Health under *Utah Code Ann.* Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

19.85.030 Permitted use.

Subject to the provisions of this chapter, but notwithstanding any contrary

provision of this title, a residential facility for persons with a disability shall be a permitted use in any zone where similar residential dwellings that are not residential facilities for persons with a disability are allowed. A residential facility for persons with a disability that would likely create a fundamental change in the character of the neighborhood may be excluded from a zoning area.

19.85.040 Development standards.

A residential facility for persons with a disability is subject to the following requirements and all other provisions of this chapter:

A. The facility shall comply with all building, safety and health regulations which apply to similar structures.

B. The facility shall be subject to the same development standards applicable to similar structures located in the same zoning district in which the facility is located.

C. The minimum number of parking spaces required for the facility shall be the same as for similar structures located in the same zoning district in which the facility is located.

D. The use permitted by this chapter is non-transferable and shall terminate if:

1. The facility is devoted to a use other than as a residential facility for persons with a disability, or

2. The license or certification issued by the Department of Human Services, the Department of Health, or other appropriate regulatory agency terminates or is revoked; or

3. The facility fails to comply with the conditions of this chapter.

E. No residential facility for persons with a disability, licensed for the housing of more than five disabled persons, shall be established or maintained within 1,000 feet, measured in a straight line between

the closest lot or parcel lines, of any one of the following facilities:

1. Another residential facility for persons with a disability licensed for the housing of disabled persons;

2. An elderly residential facility with more than five elderly persons in residence; or

3. Any of the following facilities: protective housing facility; transitional housing facility; assisted living facility, or rehabilitation/treatment facility.

F. Each residential facility for persons with a disability that are substance abuse facilities and are located within 500 feet of a school, shall provide, in accordance with rules established by the State of Utah Department of Human Services under *Utah Code Ann.* Title 62A, Chapter 2, as amended, the following:

1. A security plan satisfactory to local law enforcement authorities;

2. 24-hour supervision for residents; and

3. Other 24-hour security measures.

G. Each residential facility for persons with a disability shall obtain permits that verify compliance with the same building, safety, and health regulations as are applicable in the same zoning area to similar uses that are not residential facilities for persons with a disability.

H. No facility shall be made available to any individual whose tenancy would constitute a direct threat to the health or safety of other individuals, or result in substantial physical damage to the property of others.

I. Prior to occupancy of any residential facility for persons with a disability, the person or entity operating the facility shall:

1. Provide to the city a copy of any license or certification required by the

Utah State Department of Health or the Utah State Department of Human Services, and

2. Certify in a sworn statement that no person will reside or remain in the facility whose tenancy would constitute a direct threat to the health or safety of other individuals, or result in substantial physical damage to the property of others.

19.85.050 Reasonable accommodation.

A. None of the requirements of this chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.

B. Any person or entity wanting a reasonable accommodation shall make application therefore to the city's community development director or designee and shall articulate in writing the nature of the requested accommodation and the basis for the request.

C. The community development director, or designee, shall render a written decision on each application for a reasonable accommodation within 30 days. The decision shall be based on evidence of record demonstrating:

1. The requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability;

2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice; and

3. That equal results will be achieved as between the person with a

disability requesting the accommodation and a non-disabled person.

D. If a reasonable accommodation request is denied, the decision may be appealed to the city's board of adjustment within 30 days of the decision denying the request in the manner provided for appeals of administrative decisions set forth in this title.

19.85.060 Termination.

A use permitted by the chapter is nontransferable and shall terminate if:

A. The facility is devoted to a use other than a residential facility for persons with a disability; or

B. Any license or certification issued by the Utah Department of Health or the Department of Human Services for such facility terminates or is revoked; or

C. The facility fails to comply with the requirements set forth in this chapter.

19.85.070 Severability.

If any provision of this chapter is declared invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.